

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|---|---|----------------------------|
| A.B.S., as surviving daughter of deceased |) | |
| ANTHONY L. SMITH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Case No. 4:12-cv-00202-JCH |
| v. |) | |
| |) | |
| FRANCIS SLAY <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

**MEMORANDUM IN OPPOSITION OF THE BOARD OF POLICE COMMISSIONERS
TO INTERVENOR ANNIE SMITH'S MOTION TO RE-ISSUE CHECK FOR DEPOSIT
IN THE CLERK OF COURT**

COME NOW Defendants Bettye Battle Turner, Richard Gray, Thomas Irwin, and Francis Slay (collectively referred to herein as “Police Board”), and in response to Intervenor Annie Smith’s Motion to Re-Issue Check for Deposit in the Clerk of Court ([doc. 276](#)), state as follows:

1. In 2019, Defendant Police Board, its successor-in-interest the City of St. Louis, Intervenor Missouri Attorney General’s Office, Plaintiff A.B.S. and Intervenor Annie Smith were parties to a settlement agreement resolving Plaintiff A.B.S.’s Motion to Re-Open Discovery, Motion for Show Cause Hearing and Motion for Sanctions (“the Motion”) ([Doc. 228-3](#)).
2. On September 13, 2019 this Court entered an order enforcing that settlement agreement. [Doc. 252](#).
3. Subsequently, the Police Board and the City of St. Louis, its successor in interest, fulfilled their obligations pursuant to the terms of that Agreement. Counsel for Intervenor Smith has not advised counsel for the City and the Police Board to the contrary.

4. On January 4, 2022, Intervenor Smith filed her motion seeking a court order compelling “Defendant” “State of Missouri” to re-issue a check under terms set forth in that motion. Doc. 276.
5. Counsel for the Police Board conferred with counsel for Intervenor Smith by telephone on January 20 and 21, 2022, and it is the Police Board’s understanding that Smith’s reference to the “State of Missouri” in paragraph 3 of the Motion is a reference to Intervenor Missouri Attorney General’s Office. Doc. 276.
6. Thus, to the extent that Smith’s motion seeks relief from “Defendant” “State of Missouri,” it is the Board’s understanding that this is in error and Intervenor Smith, in actuality, seeks relief exclusively from Intervenor Missouri Attorney General’s Office.
7. Moreover, Smith’s Motion makes no reference to the Police Board, the City or the individual members of the Police Board.
8. Further, the Police Board was not party to, nor was it asked to participate in, the “good faith discussions” referenced in Smith’s Motion, further confirming the Police Board’s understanding that Intervenor Smith is not seeking any relief from the Police Board or the City, its successor-in-interest.
9. Accordingly, for these reasons, Intervenor Smith’s Motion fails to sufficiently set forth grounds for relief from the Board Police.
10. Thus, because Intervenor Smith’s Motion does not seek any relief from the Police Board, the Defendant Police Board respectfully requests that this Court issue an order denying Intervenor Smith’s Motion with respect to Defendant Police Board.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that this Court enter an order denying Intervenor Smith's Motion with respect to Defendants Bettye Battle Turner, Richard Gray, Thomas Irwin, and Francis Slay.

Respectfully submitted,

SHEENA HAMILTON,
CITY COUNSELOR

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CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2022 the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system on all attorneys of record.

/s/ Erin K. McGowan